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9 UNITED STATES DISTRICT COURT
10 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

11 DOKDINH SAYASACK,

12 Petitioner,

13 v.

14 F. E. FIGUEROA,

15 Respondent.

Case No. C08-5102FDB/JKA

16 ORDER DENYING
17 PETITIONER'S MOTION
18 TO PROCEED *IN FORMA*
19 *PAUPERIS* AS MOOT
20 AND DENYING
21 PETITIONER'S MOTION
22 FOR APPOINTMENT OF
23 COUNSEL

21 This habeas corpus action, filed pursuant to 28 U. S.C. 2254, has been referred to the
22 undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636 (b)(1)(B) and
23 Local Magistrates' Rules MJR 3 and MJR 4.

24 Petitioner moved to proceed *in forma pauperis* (Dkt. # 1). The clerk's office sent him a
25 letter outlining a number of defects in his application (Dkt # 2). Petitioner then paid the five dollar
26 filing fee (Dkt # 3). The motion to proceed *in forma pauperis* is **DENIED AS MOOT**.

27 Petitioner has also filed a motion for appointment of counsel (Dkt # 5). Petitioner alleges he
28 is indigent and asks counsel be appointed to represent him. There is no right to have counsel

1 appointed in cases brought under 28 U.S.C. § 2254 unless an evidentiary hearing is required, because
2 the action is civil, not criminal, in nature. See Terravona v. Kincheloe, 852 F.2d 424, 429 (9th Cir.
3 1988); Brown v. Vasquez, 952 F.2d 1164, 1168 (9th Cir. 1992); and Rule 8(c) of the Rules
4 Governing Section 2254 Cases in the United States District Courts. An evidentiary hearing has not
5 been granted in this case. Further, the claims in the petition are adequately set forth and articulated.
6 Petitioner's motion for appointment of counsel (Dkt. # 4) is therefore **DENIED**.

7 The clerk is directed to send copies of this order to petitioner and remove Dkt. # 1 and 4 from
8 the court's calendar.

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11 DATED this 11 day of March, 2008.

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13 /S/ J. Kelley Arnold
14 J. Kelley Arnold
15 United States Magistrate
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